

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

Bail Appl.No. 3991 of 2007()

CRIME 182/05 OF ADHUR POLICE STATION, KASARAGOD
CRMP.861/2007 of DISTRICT COURT, KASARAGOD
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PETITIONER : 1ST ACCUSED:

SIVARAMA GOWDA, S/O.AITHAPPA GOWDA,
RTD.HEAD MASTER, KUDKULI HOUSE, BELLIPPADY,
DELAMPADY VILLAGE, KASARAGOD TALUK AND DISTRICT.

BY ADV. SRI.T.SETHUMADHAVAN
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR

RESPONDENTS: RESPONDENT:

STATE OF KERALA REPRESENTED BY THE
DIRECTOR OF PUBLIC PROSECUTOR,
HIGH COURT OF KERALA , ERNAKULAM.
(CRIME NO.182/2005 OF ADHUR POLICE STATION,
KASARAGOD).

BY PUBLIC PROSECUTOR SRI.P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 03/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A.No. 3991 of 2007

Dated this the 2nd day of July, 2007

ORDER

Petitioner is the first accused in a crime registered, inter alia, under Sections 406, 420 and 120B I.P.C. The crux of the allegations raised by the defacto complainant, who works as a Teacher in a school, was that she was induced by the petitioner herein to make a fixed deposit in an establishment run by accused 2 and 3. The amount was not returned. According to the defacto complainant this amounts to cheating punishable under Section 420 I.P.C. The crime was registered on the basis of a private complaint referred to the police by the learned Magistrate under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that even accepting the entire allegations, the petitioner, a retired Headmaster, has only recommended to the defacto complainant that he can make deposit in the firm run by accused 2 and 3 and get good returns. There is absolutely nothing culpable in the conduct alleged against

the petitioner. It would be a traversity of justice to compel the petitioner to undergo arrest and incarceration in prison on the strength of such allegations. The petitioner is willing to co-operate with the investigators. Directions under Section 438 Cr.P.C. may be issued, subject to appropriate conditions, prays the counsel for the petitioner.

3. The learned Prosecutor does not seriously oppose the application. I reckon that stand to be reasonable in the facts and circumstances of the case. I am satisfied that the petitioner can be granted anticipatory bail, subject to appropriate conditions. In the absence of serious objection, it is not necessary to advert to facts in any greater detail.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 10.7.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 11.7.07 and 12.7.07 and thereafter on all Mondays and Fridays between 10 a.m. and 1p.m. for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 10.7.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 10.7.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 10.7.2007.

(R. BASANT)
Judge